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REMARKS

This Amendment and Response is filed in reply to the Final Office Action dated September 22, 2004 and the Advisory Action dated March 3, 2005. In said Advisory Action, the Examiner indicated that the amendments to the claims in Applicant's Response filed November 19, 2004 would not be entered. Thus, Applicant bases this Response on the status of the claims as of the Final Office Action dated September 22, 2004. Claims 1-4, 7-13 and 15-27 are pending. Claims 1-4, 7-13 and 15-27 are rejected. Claims 1, 15, 18, 24 and 25 are amended. Claim 27 is cancelled, without prejudice or disclaimer.

Amendments to the claims are not an acquiescence to any of the rejections. Furthermore, silence with regard to any of the Examiner's rejections is not an acquiescence to such rejections. Specifically, silence with regard to Examiner's rejection of a dependent claim, when such claim depends from an independent claim that Applicant considers allowable for reasons provided herein, is not an acquiescence to such rejection of the dependent claim(s), but rather a recognition by Applicant that such previously lodged rejection is moot based on Applicant's remarks and/or amendments relative to the independent claims (that Applicant considers allowable) from which the dependent claim(s) depends. Applicant reserves the option to further prosecute the same or similar claims in the instant or a subsequent application. Upon entry of the Amendment, claims 1-4, 7-13 and 15-26 are pending in the present application.

The issues of the subject Final Office Action are presented below with reference to paragraph markings of the Office Action:

With regard to the Final Office Action, paragraphs entitled "Claim Rejections - 35 U.S.C. §102:" The Examiner rejected claims 1, 7 and 15-17 under 35 U.S.C. §102(e) as being anticipated by Drosset et al., U.S. Patent Ser. No. 6,662,231 (referred to hereinafter as Drosset). The Examiner rejected claims 1, 9-13, 18-20 and 22-27 under 35 U.S.C. §102(e) as being anticipated by Pezzillo et al., U.S. Patent Ser. No. 6,434,621 (referred to hereinafter as Pezzillo).

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With regard to the Final Office Action, paragraphs entitled "Claim Rejections - 35 U.S.C. §103:" The Examiner rejected claims 2-4 under 35 U.S.C. §103(a) as being unpatentable over Drosset in view of Bowman-Amuah, U.S. Patent Ser. No. 6,606,660 (referred to hereinafter as Bowman). The Examiner rejected claim 8 under 35 U.S.C. §103(a) as being unpatentable over Drosset. The Examiner rejected claim 21 under 35 U.S.C. §103(a) as being unpatentable over Pezzillo.

Applicant traverses the Examiner's rejections under 35 U.S.C. §102(e) and 35 U.S.C. §103(a), and respectfully requests reconsideration in view of the amendments and remarks.

Drosset describes a method and system for providing audio service to a client through a communication network. A user requesting service is validated by the server and the user can request streaming of audio files or play lists from the server. The user can maintain and modify the play lists and send play lists to other users. However, the sending of play lists from one user to another does not result in modifying the play list of the user receiving the play list. As noted by the Examiner, Drosset discloses that a user can add songs to his/her own play list to modify the play list. Thus, Drosset only provides that the users can modify their own play lists by requesting the streaming of files from the play lists received from another user. Drosset is silent on the server modifying a user's play list based on receiving a request from a remote network node to modify the user's play list. By requiring a user to be validated for accessing the server to modify the user's play list, Drosset teaches away from the server modifying the user's play list based on information received from a remote node.

Applicant, on the other hand, recites a method *for use by a network server* where the network server receives content and user identification information from a remote network node and modifies the identified user's play list at the request of the remote network node to include a reference to the content provided by the remote network node. Since the claims clearly recite that the method is for use by a network server, it is the server that receives the remote network node request and modifies the user's play list

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accordingly. Drosset does not teach or suggest a *remote network node request to modify a play list, with the request including content and user information for modifying the play list of the user to include a reference to the remote network node content*, as presented in Applicant's independent claim 1 and independent claim 15.

Pezzillo describes a system for enabling Internet or intranet broadcasting that offers audio and webcast automation. The webcaster or service provider can cause streaming of content to a network receiver identified with a user. When the listener accesses the system, the webcaster can add content, e.g., advertising, to the play list that the listener receives. Pezzillo is silent with regard to a *remote network node interface for receiving a request from a remote network node to modify a user's play list, wherein the request identifies remote network node content and identifies the user* or listener to receive streaming delivery of the content, as presented in Applicant's independent claims 1, 18 and 24.

In Pezzillo, the webcaster, or server providing the streaming content modifies the play list according to the webcaster's input through the webcaster's interface. Thus, Pezzillo teaches away from a *remote network node interface for inputting remote network node content and user information for modifying an identified user's play list to include a reference to the remote network node content*, as presented in Applicant's claims 1 and 18.

Further Pezzillo does not teach receiving from a remote node, information identifying a user. In response to Applicant's remarks filed June 14, 2004, the Examiner states that Pezzillo teaches receiving information identifying a user. However, as noted by the Examiner, the identifying information is received via a "preferences page" that the listener provides to the webcaster. Thus, Pezzillo teaches receiving information identifying the user from the user. Thus, Pezzillo does not teach or suggest a *remote network node sending remote network node content and user information for modifying a play list of the user to include a reference to the remote network node content*, as recited in Applicant's claims 1 and 18. Nor does Pezzillo teach or suggest a *remote network*

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node interface for receiving content and user identification input from the remote network node and for forming a request to modify a play list of the user, as presented in Applicant's independent claim 24.

Bowman describes a stream-based communication system and method, where a message to be sent from a sending system in a shared format is first translated to a stream-based format and then sent to a receiving system. When received at the receiving system, the stream-based message is translated to the shared format. As recognized by the Examiner, Bowman does not teach or suggest a *play list identifying content for streaming delivery to a network receiver associated with a user and modifying the play list associated with the identified user to include a reference to the remote network node content*, as presented in Applicant's claim 1. Further, the system and method described by Bowman is a communication system and method and does not provide for a play list of streaming content, as provided by Applicant's network server, such as would be provided by an Internet radio or TV station.

As such, Bowman does not teach or suggest a play list of streaming content. Since both Drosset and Pezzillo teach play lists, it follows that there is no motivation to combine the audio service of Drosset and/or the broadcasting system of Pezzillo with the message system of Bowman. Further, since both Drosset and Pezzillo teach away from receiving requests from remote network nodes to modify a user's play list, both Drosset and Pezzillo teach away from such combination and there can be no reasonable expectation of success to so combine the references.

Based on the distinctions described herein between the cited references and Applicant's independent claims, Applicant respectfully suggests that Drosset and/or Pezzillo do not anticipate Applicant's method for use by a network server that streams content over a network to a network receiver, as recited in Applicant's independent claims 1, 15, 18 and 24. Reconsideration of the rejection of independent claims 1, 15, 18 and 24 under 35 U.S.C. 102(e) as being anticipated by Drosset and/or Pezzillo and allowance of independent claims 1, 15, 18 and 24 are respectfully requested. Claims 2-4

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and 7-13, claims 16 and 17, claims 19-23 and claims 25 and 26 depend from independent claims 1, 15, 18 and 24, respectively, and are deemed allowable at least by dependency.


Further as provided above, neither Drosset nor Pezzillo teach or suggest all of the elements of any one of claims 2-4, 8 and 21 and the respective independent claims on which they depend. Also, the above remarks show that there is no motivation to combine Drosset and/or Pezzillo with Bowman and no reasonable expectation of success for such a combination. Thus, claims 2-4, 8 and 21 are patentable over the references cited and allowance is respectfully requested.

CONCLUSION

Based on the above amendments and remarks, it is respectfully submitted that the claims and thus this application are in condition for allowance. Accordingly, allowance is requested. If there are any remaining issues or the Examiner believes that a telephone conversation with Applicant's attorney would be helpful in expediting the prosecution of this application, the Examiner is invited to call the undersigned at (972) 718-4800.

Respectfully submitted,

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